

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

In Re:	§	Case No. 20-43597
Briggs & Stratton Corporation	§	
	§	Chapter 11
Debtors.	§	
	§	Judge Barry S. Schermer
<hr/> Krista “Danyale” Ward and	§	
Joseph Ward,	§	Hearing Date: November 18, 2020
	§	
Movants,	§	Hearing Time: 10:00 am CDT
v.	§	
	§	Hearing Location: Thomas F. Eagleton
		Federal Courthouse
Briggs & Stratton Corporation	§	Courtroom 5 North
	§	
Respondent.	§	Response Due: November 18, 2020

NOTICE OF HEARING AND MOTION FOR RELIEF FROM AUTOMATIC STAY

WARNING: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE BY NOVEMBER 18, 2020. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU.

IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. THE DATE IS SET OUT ABOVE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS. THE HEARING TO BE HELD ON THE DATE AND TIME ABOVE BEFORE THE HONORABLE BARRY S. SCHERMER, IN THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF MISSOURI, SOUTHEASTERN DIVISION, RUSH HUDSON LIMBAUGH, SR. U.S. COURTHOUSE, COURTROOM 3A, 555 S. INDEPENDENCE STREET, CAPE GIRARDEAU, MO 63703.

COMES NOW Movant’s Krista “Danyale” Ward (“Danyale”) and Joseph Ward

(“**Joseph**”), collectively, (“**The Ward’s**”), by and through her undersigned counsel, and pursuant to 11 U.S.C. § 362(d) and Bankruptcy Rule 4001, moves the Court for an order granting relief from the automatic stay of creditor actions against Briggs & Stratton Corporation (“**Debtor**”), formerly known as Briggs & Stratton Power Products Group, LLC. In support thereof, The Ward’s state as follows:

Jurisdiction

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §1334 and 11 U.S.C. §362 and Bankruptcy Rule 4001(a).

Background as to Danyale

2. On September 26, 2018, Danyale used a fuel containment system (“a gas tank”) to refuel a pressure washer when its spout separated from the gas tank upon its tilt causing fuel to spark the motor of the pressure washer to flash causing second and third degree burns on 27% of Danyale’s left side and right leg (the “Injury”).
3. The fuel containment system, in whole or in part, manufactured, designed and placed into the stream of commerce by Briggs & Stratton Corporation, which is now Briggs & Stratton Corporation.
4. As a result of spout separating from the gas tank, Danyale sustained severe personal injuries, medical expenses, and other damages.
5. Soon thereafter, Danyale hired an attorney to prepare a Complaint against Debtor, filed in Florida state court (the “State Case”). The State Court action is pending in the fifth judicial circuit, in and for Marion County, Florida, Case No. 2019-CA-1352, attached hereto as Exhibit “A”.

6. Among other relief sought in the State Case, Danyale seeks judgment against Debtor and the costs of Danyale's cause of action.
7. On or about July 20, 2020, Debtor filed its Chapter 11 Petition herein. Debtor did not list Danyale as a creditor therein.
8. Upon filing and pursuant to 11 USC Section 362, an automatic stay of creditor actions against Debtor was imposed.

Background as to Joseph

9. Joseph reallege and incorporate herein the allegations set forth in paragraphs 1 through 8 above and for an additional cause of action against Debtor, and states as follows:
10. As a direct and proximate result of the acts and omissions of the Debtor, Joseph has lost the comfort, society, companionship, services, aid, and consortium of his wife, Danyale, and has incurred medical expenses in the treatment of his wife's injuries and will incur additional expenses in the future.

Relief Requested

11. On information and belief, at the time of the Injury, Debtor was insured by one or more insurance policies of liability insurance, which provide available insurance coverage against liability for the claims in the expected Complaint, such that allowing the civil action litigation to proceed will cause no harm to the Debtor or the bankruptcy estate.
12. On information and belief, no other named defendant in the State Case is a debtor in bankruptcy.
13. The Ward's seek relief from the automatic stay in order to pursue their cause of action against Debtor in the State Case for the purpose of recovering any insurance coverage available under any policy insuring Debtor and in order to liquidate their claim.

14. Granting relief from the automatic stay to allow the State Case to proceed will completely resolve all issues between Debtor and The Ward's as the claims alleged in the State Case will be the only issue that exists between Debtor and The Ward's, which, because of available insurance, will end upon the conclusion of the State Case.
15. Granting relief from the automatic stay will not interfere with the bankruptcy estate because The Ward's are seeking to liquidate their claims in the State Case in order to recover under applicable insurance policies and possibly against other non-Debtor defendants.
16. Granting relief from the automatic stay will not prejudice other creditors, as The Ward's are seeking relief solely for the purpose of recovering under applicable insurance policies and other non-Debtor defendants.
17. Denying relief from the automatic stay will impose substantial hardships on The Ward's in that The Ward's would be forced to delay further pursuit of their claims in the State Case for what could be approximately two and a half more years, presenting issues with preservation of evidence, loss of witnesses, and a substantial delay in recovery for The Ward's and causing them severe prejudice.
18. For the foregoing reasons, cause exists pursuant to 11 U.S.C. § 362(d)(1) to grant The Ward's relief from the automatic stay in order to allow The Ward's to proceed for the purpose of recovering any insurance coverage available under any other policy insuring Debtor, as well as against other non-Debtor defendants in order to pursue The Ward's cause of action.

WHEREFORE, Movant's Krista "Danyale" Ward and Joseph Ward respectfully pray that this Court enter its Order terminating and/or modifying the automatic stay of 11

U.S.C. § 362 to allow them to proceed in the State Court Case against any insurance coverage of the Debtor, as well as against other non-Debtor defendants, and any insurance company for such non-Debtor defendants, and that this Court grant such other and further relief as this Court deems proper under the law and circumstances.

Respectfully Submitted on October 26, 2020.

Dean, Ringers, Morgan & Lawton, P.A

/s/ *G. Clay Morris*

G. CLAY MORRIS, ESQ.

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Attorneys for Movants KRISTA

"DANYALE" WARD and JOSEPH WARD

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was filed electronically on October 23, 2020, with the United States Bankruptcy Court and has been served on all counsel of record and the parties in interest via e-mail by the Court's CM/ECF System as listed on the Court's Electronic Mail Notice List.

I certify that a true and correct copy of the foregoing document was filed electronically with the United States Mail Service, first class, postage fully pre-paid, address to the party listed below on October 23, 2020.

Briggs & Stratton Corporation

PO Box 702

Milwaukee, WI 53201

dba **Briggs & Stratton Power Products Group, LLC**

dba **Briggs & Stratton Power Products, LLC**

dba **Briggs & Stratton Power Products Group**

/s/ *G. Clay Morris*

G. CLAY MORRIS, ESQ.